

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LATASHA MCLAUGHLIN, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

WELLS FARGO BANK, NA,

Defendant.

No. C 15-02904 WHA

**ORDER DENYING STAY AND
VACATING HEARING**

INTRODUCTION

In this TILA action, defendant moves for a stay pending its Rule 23(f) petition for permission to appeal the class certification order. For the reasons stated herein, the motion for a stay is **DENIED**.

STATEMENT

On June 22, 2016, an order certified two classes: (1) a class under Rule 23(b)(3) to pursue damages only; and (2) a class under Rule 23(b)(2) to pursue declaratory relief only (Dkt. No. 123). Now, defendant moves for a stay pending resolution of its Rule 23(f) petition for permission to appeal the class certification order.

Courts consider four factors when evaluating whether to issue a stay: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public


1 interest lies. *Leiva-Perez v. Holder*, 640 F.3d 962, 964 (9th Cir. 2011). A stay is an “intrusion
2 into the ordinary processes of administration and judicial review, and accordingly is not a
3 matter of right.” *Nken v. Holder*, 556 U.S. 418, 427 (2009).

4 This order concludes that a stay is not warranted here. *First*, for the reasons set out in
5 the class certification order, defendant has not made a strong showing it is likely to succeed on
6 the merits of its appeal. *Second*, defendant has not shown that it will be irreparably injured
7 absent a stay. Indeed, “[b]eing required to defend a suit, without more, does not constitute a
8 ‘clear case of hardship or inequity.’” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1112 (9th Cir.
9 2005). *Third*, a stay would lead to an unwarranted delay in relief for class members. *Fourth*,
10 the public interest lies in providing relief to class members, especially where a prior order
11 concluded defendant’s alleged practices violated TILA.

12 For the reasons stated herein, defendant’s motion for a stay is **DENIED**. Finding oral
13 argument unnecessary, the Court hereby **VACATES** the hearing scheduled for August 18, 2016.

14
15 **IT IS SO ORDERED.**

16
17 Dated: August 16, 2016.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE